IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 8239 OF 2005

The State of Maharashtra ..... Applicant

Versus

Damaji Yeshwant Vaidya & Anr. ..... Respondents

Mr. S.V. More, APP for the Applicant

Mr. S.V. Dhakras for the Respondent Nos. 1 & 2.

CORAM : A.S. OKA, J.

DATE : 8TH DECEMBER 2006

P.C.

1) Heard learned APP for the State. The acquittal of the Respondents is for the offences punishable under Sections 420, 465, 468 and 471 read with Section 34 of the Indian Penal Code. The allegations in the F.I.R. registered against the Respondents is that the Respondents cheated the complainant. The allegation is that the Respondents had let out the same land to two persons.

2) The learned Trial Judge has noted that Charge was framed on 25th April 2003. From the date of

framing the charge, witness summons were issued to all the prosecution witnesses on five occasions. It is noted that notwithstanding service of witness summons on five occasions, none of the prosecution witness appeared on any date. He has noted that even the complainant did not appear.

3) If this is the state of affairs, no fault can be found with the view taken by the learned Magistrate. No case is made out for grant of leave. Application is rejected.

(A.S. OKA, J.)